

SCANNED

DATE: 4-13-04

BY: cmf

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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DISTRICT COURT
DISTRICT OF MASS.

CHARLES RASO, TRUSTEE
of the MASSACHUSETTS BRICKLAYERS
AND MASONS HEALTH AND WELFARE,
PENSION AND ANNUITY FUNDS,

Plaintiff,

v.

STONEWORKS BY RAND, RAND
STONEWORKS

Defendants.

C. A. No. 03-12535-RCL

AMENDED COMPLAINT

Count One As Against Defendant Stoneworks by Rand

1. This is an action under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1001, et seq., as amended by the Multi-Employer Pension Plan Amendments Act. 29 U.S.C. §1381 et seq., brought on behalf of Massachusetts Bricklayers and Masons Health and Welfare, Pension and Annuity Funds ("Funds") for damages and injunctive relief arising from unpaid and delinquent contributions.

2. This court has jurisdiction pursuant to 29 U.S.C. §1132(e)(1) and venue lies in this district pursuant to 29 U.S.C. §1132(e)(2).

3. Plaintiff, Charles Raso, is the Trustee of the Funds and is a "fiduciary" within the meaning of Section 502(a)(3) of ERISA, 29 U.S.C. §1132(a)(3). The Funds are "multi-employer plans" within the meaning of Section 3(37)(A) of ERISA, 29 U.S.C. §1002(37)(A) and "employee benefit plans" or "plans" within the meaning of Section 3(3) of ERISA, 29 U.S.C.,

§1002(3). The Funds have a principal office at and are administered from 645 Morrissey Boulevard, Boston, MA.

4. Defendant Stoneworks by Rand ("Stoneworks") is an employer with a place of business in Scarborough, Maine. Defendant Stoneworks is an "employer" within the meaning of 29 U.S.C. §1002(5) and an employer in an industry affecting commerce within the meaning of 29 U.S.C. §152(2), (6) and (7).

5. Defendant Rand Stoneworks ("Rand") is an employer with a place of business in Scarborough, Maine. Defendant Rand is an "employer" within the meaning of 29 U.S.C. §1002(5) and an employer in an industry affecting commerce within the meaning of 29 U.S.C. §152(2), (6) and (7).

6. Bricklayers and Allied Craftsmen Local Union No. 3 Eastern Massachusetts ("Local 3") is a "labor organization" within the meaning of 29 U.S.C. §152(5).

7. Defendant Stoneworks is signatory to collective bargaining agreements with Bricklayers and Allied Craftsmen Local Union No. 3 Eastern Massachusetts and agreed the terms of Agreements and Declarations of Trust in which Defendant Stoneworks was bound to make contributions on

8. Defendant Stoneworks has failed to make required contributions to the Funds in violation of Section 515 of ERISA, 29 U.S.C. §1145.

WHEREFORE, Plaintiff demands that judgment enter against Defendant Stoneworks in accordance with Section 502 of ERISA, 29 U.S.C. §1132(g)(2).

1. Awarding the Funds the following amounts:
 - a. the unpaid contributions;

- b. interest on unpaid contributions at a rate of 1.5% per month from the date payment was due;
- c. liquidated damages pursuant to the collective bargaining agreements;
- d. all costs and reasonable attorney's fees incurred by the Funds in connection with this action;

2. Permanently enjoining the Defendant from violating its obligations under the terms of its collective bargaining agreements with District Council of Eastern Massachusetts Bricklayers and Allied Craftsmen Local Unions and the Agreements and Declarations of Trust to make timely contributions and reports to the Funds; and

3. Ordering such other and further relief as this court may deem just and proper.

Count II As Against Defendant Rand

9. Plaintiff hereby sets forth and incorporates by references paragraphs one through eight of this Amended Complaint.

10. Upon information and belief and at all time material to this action, the officers, directors, partners or stockholders of Defendant Stoneworks exercise directly or indirectly a significant degree of ownership, management or control over Defendant Rand.

11. Defendant Rand is bound by the terms and conditions of the collective bargaining agreement between Local 3 and Defendant Stoneworks pursuant to Article 1-C, the Work Preservation Clause.

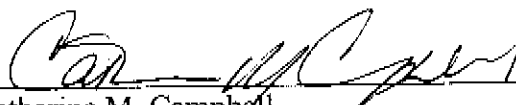
12. Employees covered by the collective bargaining agreements referred to in Paragraph 7 of this Amended Complaint have been reported on the payroll records of Defendant Rand.

13. Defendant Rand has submitted remittance reports and employee benefit contributions to Plaintiff Funds.

Certificate Of Service

I, Catherine M. Campbell, hereby certify that I caused a copy of the foregoing to be mailed this date by certified mail, return receipt requested, to the United States Secretaries of Labor and Treasury.

Dated:


Catherine M. Campbell